

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

George Lussier Enterprises,
Inc., et al.

v.

Civil No. 99-cv-109-PB

Subaru of New England, Inc.,
et al.

O R D E R

The Court has for consideration Defendants' Bill of Costs (document no. 432), as supplemented (document no. 433), which is ripe for decision. The total amount that Defendants request is \$86,912.86. After reviewing the Bill of Costs, Plaintiffs' specific objections thereto (document no. 435), and Defendants' responses (document no. 439), I find that the following deductions should be made from the Defendants' request:

1. The Court deducts \$3,499.45 from the requested amount for deposition transcripts that Plaintiffs demonstrated that they provided to the Defendants free of charge;
2. The Court deducts \$1,997.17 from the requested amount for unsubstantiated postage charges;
3. The Court finds that the Defendants waived the requested amount of \$2,098.00 for Real Time charges;

4. The Court finds that the Defendants waived the requested amount of \$12,466.96 for charges pertaining to depositions that were noticed and taken by Defendants, but not cited in the summary judgment materials;
5. The Court finds that the Defendants waived the requested amount of \$4,805.36 for depositions that were noticed and taken by the Plaintiffs, but not cited in the summary judgment materials;¹ and
6. The Court finds that the Defendants waived the requested amount of \$6,806.89 for charges pertaining to obtaining court hearing transcripts.

The total amount to be deducted from the Bill of Costs in the above categories is \$31,673.83. The Court finds that the Plaintiffs' remaining objections, not specifically addressed above, are without merit. In particular, the Court notes that it is persuaded that the costs of transcription and videotape deposition expenses should be allowed for the depositions that

¹The amount that the Court finds should be deducted in this category differs from that advanced by the Plaintiffs because the Court has already deducted certain of the deposition transcript charges in the first category of deductions, and because the Court is not persuaded that the costs of William Kelly's deposition transcript, which was submitted with the Defendants' summary judgment motions, should be excluded.

were cited in the summary judgment materials. See BDT Prods., Inc. v. Lexmark Int'l, Inc., 405 F.3d 415, 419 (6th Cir.), cert. denied, 126 S. Ct. 384 (2005); Tilton v. Capital Cities/ABC, Inc., 115 F.3d 1471, 1478 (10th Cir. 1997).

Taking into account the deductions to the amount requested in Defendants' Bill of Costs, as set forth above, I direct the clerk of court to tax as costs the amount of \$55,239.03 in favor of the Defendants.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: March 8, 2006

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